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1 Federation of Classified Employees.

2 Having considered the complete record and briefs submitted,
3 this Superintendent makes the following:

4 **DECISION**

5 The State Superintendent of Public Instruction has
6 jurisdiction of this appeal in accordance with section 20-3-210,
7 MCA. The Motion for Joinder is denied. The decision of the
8 County Superintendent denying jurisdiction over this matter is
9 affirmed.

10 **MEMORANDUM OPINION**

11 Section 10.6.104, ARM, requires that the County Superintendent
12 upon receipt of a notice of appeal determine whether the appeal
13 is a contested case and whether he has jurisdiction over the
14 matter.

15 10.6.102, ARM, defines contested case as follows:

16 Contested case means any proceeding in which a
17 determination of legal rights, duties or privileges of a
party is required by law.

18 This section does not in itself create jurisdiction for a
19 county superintendent to hear a matter.

20 Richardson's employment was covered by a collective bargaining
21 agreement which contained the following language:

22 All newly hired employees shall serve a six (6) month
23 probationary period. During the probationary period,
employees may be dismissed at any time and for any reason
24 that the employer at his discretion deems appropriate.
Article VI, Collective Bargaining Agreement, May 26, 1988.

1 Richardson's appeal fails to show any legal right, duty or
2 privilege created by any law enforceable before the County
3 Superintendent. He was a probationary employee who could be
4 dismissed at any time for any reason. The sole avenue for remedy
5 lies with the collective bargaining agreement and its binding
6 arbitration clause. Neither the County Superintendent nor this
7 Superintendent have the authority to require the union to pursue
8 the collective bargaining remedies. Likewise, this
9 Superintendent has no jurisdiction to require the joinder of a
10 union.

11 DATED this 9th day of November, 1990.

12
13 Nancy Keenan
14 NANCY KEENAN
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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on this 9th day of November, 1990,
a true and exact copy of the foregoing DECISION AND ORDER was
mailed, postage prepaid, to the following:

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